

SENATE BILL REPORT

SB 6661

As Reported By Senate Committee On:
Human Services & Corrections, February 07, 2008

Title: An act relating to child care licensing actions.

Brief Description: Regarding child care licensing actions.

Sponsors: Senators Franklin, Hargrove, Regala, Brandland, McDermott, Kohl-Welles, McAuliffe, Kline and Rasmussen.

Brief History:

Committee Activity: Human Services & Corrections: 1/31/08, 2/7/08 [DPS].
Ways & Means:

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6661 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Shani Bauer (786-7468)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Paula Moore (786-7449)

Background: The Department of Early Learning (DEL) is responsible for licensing child care agencies and adopting minimum requirements for the operation of child care facilities.

The requirements for licensing must relate to:

- the size and suitability of the facility;
 - the character, suitability, and competence of an agency to care for children;
 - the number of qualified persons required to render the type of care for which the person seeks the license;
 - the health, safety, cleanliness, and general adequacy of the premises;
 - the provision of necessary care and early learning including food, supervision, and discipline; physical, mental and social well-being; and educational and recreational opportunities for those served;
 - the financial ability of an agency to comply with the minimum requirements; and
 - the maintenance of records pertaining to the care of children.
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This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Upon application, DEL must investigate and issue a license within 90 days. DEL may deny, suspend, revoke, or modify a license upon proof that:

- an agency has failed or refused to comply with the applicable law or minimum requirements; or
- the conditions required for the issuance of a license have ceased to exist with respect to such license.

Summary of Bill (Recommended Substitute): In conducting a character and suitability assessment for licensing, employment, and access to children in care, DEL may not automatically disqualify the individual based on a prior license denial, suspension, revocation, or modification. The burden of proof is on DEL to show that the facts and circumstances of a previous licensing enforcement action are grounds for disqualification of the individual's current application.

The court may award costs, attorney fees, and a monetary penalty to an individual who is denied a license where the court determines that DEL's denial was arbitrary and capricious.

DEL and the early learning advisory council must report to the Governor and the Legislature regarding the implementation of activities to improve the quality and safety of child care, including:

- An implementation plan for the quality rating and improvement system. Prior to implementing the system, the department must present the system to the legislature and obtain formal approval.
- The implementation of the state training and registry system;
- The implementation of practices to enhance outreach and education to the public;
- Efforts concerning public education regarding unlicensed child care;
- Results of negotiated rule making for family child care licensees;
- Evaluation of the roles and responsibilities of the child care resource and referral network;
- Efforts regarding the establishment of statewide standards for licensed child care provider pre-service. A preliminary report is due by December 1, 2008 with the final report due by June 30, 2009.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute): Moves the requirement that a prior licensing enforcement action not be used to automatically disqualify an individual to the statute that addresses information DEL may review as part of a character and suitability assessment for licensing, employment, and access to children in care. Adds clarification that prior licensing enforcement action may not be used to automatically disqualify a person from having access to children who are in a child care center. Clarifies that the burden of proof is on DEL to show that the facts and circumstances of a previous licensing enforcement action are grounds for disqualification of the individual's current application.

Allows the court to award costs, attorney fees, and a monetary penalty to an individual who is denied a license and the court determines that the DEL's denial was arbitrary and capricious. Requires DEL and early learning advisory council to report to the Governor and the Legislature regarding the implementation of activities to improve the quality and safety of child care.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This bill provides equity for individual licensees who may not have the ability to meet technical requirements for a child care license. This may be due to financial reasons. However, they are treated equal to a rapist or someone who has abused or neglected a child. The suspension of a child care license not only affects the person's ability to operate a child care facility, but also the person's ability to work at a facility, work in a child related field, or even volunteer to assist on child field trips. Personal bias may come into the decision. Because of impact of license suspension, some providers have been forced to spend thousands of dollars on legal fees.

OTHER: The DEL is committed to the safety of children and ensuring consistency in its licensing processes.

Persons Testifying: PRO: Joan Mell, private attorney; Somer Harmon, child care provider; Patty Boyd, child care provider; Adair Dammann, SEIU Local 925.

OTHER: Dr. Amie Lapp Payne, Department of Early Learning.